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**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools, Thriving Students

Memo

To Board of Education

From Vernon Hal, Senior Business Officer
Marion McWilliams, General Counsel

Board Meeting Date February 22, 2017

Subject LEASE WITH ACOE FOR 750 INTERNATIONAL BOULEVARD, OAKLAND

Action Requested Approval by the Board of Education of Lease With ACOE for 750 International Boulevard, Oakland

Background and Discussion ACOE has leased 750 International Boulevard from the District since 2011 for use by its County Community School. The program is operated by ACOE with support from the Probation Department. The District is extending the lease for 4 years (retroactive to July 1, 2016 when the original lease expired). The term of the new lease is July 1, 2016 to June 30, 2020. The County has agreed to pay half the cost of replacing the HVAC system in the building. That work has been completed under the supervision of the District's Building and Grounds department. Upon approval of the lease, ACOE will submit to the District a check for \$36,000.

Recommendation Approval by the Board of Education of Lease With ACOE for 750 International Boulevard, Oakland

Fiscal Impact ACOE will pay the District \$36,000

Attachments

- Lease Agreement

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease" and/or "Lease Agreement") is made on this 14th day of February, 2017, by and between the Oakland Unified School District, a California public school district ("District"), and the Alameda County Office of Education, ("ACOE").

RECITALS:

WHEREAS, District is the owner, in fee, of the school site property , including the real property and improvements thereto, located at and commonly referred to as 750 International Blvd., Oakland, CA 94606, ("Property" and/or "Facility");

WHEREAS, pursuant to Education Code section 17077.40 and section 17527, et seq., District is authorized to enter into joint use agreements;

WHEREAS, Education Code sections 17527 through 17538 authorize the governing board of any school district to enter into a lease for the joint use of operating school property if the joint use does not (1) interfere with the educational program or activities of the school, (2) unduly disrupt residents in the surrounding neighborhood, or (3) jeopardize the safety of school children;

WHEREAS, District, pursuant to section 17529 of the Education Code, has determined that permitting ACOE to use the Premises will not (1) interfere with the educational programs or activities of any school or class conducted on the Facility, (2) unduly disrupt the residents in the surrounding neighborhood, or (3) jeopardize the safety of the children at the Facility;

NOW THEREFORE, in consideration of the covenants and agreements hereinafter set forth, District and ACOE agree as follows:

AGREEMENT:

1. LEASE OF PREMISES. District hereby leases the Property to ACOE, and the ACOE hereby leases the Property from the District, upon the terms and conditions set forth in this Lease Agreement. The interest in real property conveyed by this Lease Agreement is hereby accepted by the undersigned officer on behalf of ACOE and the ACOE consents to recordation thereof by the District's duly authorized officer.

2. TERM.

A. The term of the Lease shall be four (4) years, commencing July, 1, 2016 ("Commencement Date") and expiring on June 30, 2020 ("Term").

3. PURPOSE OF LEASE. The purpose of this Lease is for District to provide ACOE the use of the Premises for operation of its services for a County Community School (as defined by the Ed. Code) (the "Program").

4. LEASE PAYMENTS. ACOE agrees to pay to the District, its successors and assigns, as rental for the beneficial use and occupancy of the Property during each Rental Period, the Lease Payments in the amount of One (1) dollar per year.

5. HVAC SYSTEM REPLACEMENT. ACOE has agreed to pay \$36,000 toward the cost of replacing the HVAC system at the Premises. Within 45 days after approval of the lease by the Board of ACOE, ACOE shall deliver a check payable to the "Oakland Unified School District" to Marion McWilliams, General Counsel, OUSD.

6. CONDITION OF PREMISES.

A. Condition of Premises. The Premises are leased to ACOE on an "AS IS" basis. District shall not be required to make or construct any alterations including structural changes, additions or improvements to the Premises. By entry and taking possession of the Premises pursuant to this Lease, ACOE accepts the Premises in "AS IS" condition. ACOE acknowledges that neither the District nor District's agents have made any representation or warranty as to the suitability of the Premises to the conduct of ACOE's business. Any agreements, warranties or representations not expressly contained herein shall in no way bind either District or ACOE, and District and ACOE expressly waive all claims for damages by reason of any statement, representation, warranty, promise or agreement, if any, not contained in this Lease.

B. Disclaimer of Warranties. Neither the district nor its assigns makes any warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by ACOE of the property or any other representation or warranty with respect to the property. In no event shall the district or its assigns be liable for incidental, indirect, special or consequential damages in connection with or arising out of the site lease or this lease agreement for the existence, furnishing, functioning or ACOE's use of the property.

7. USE OF PREMISES.

A. ACOE shall use the Premises solely for the purpose of operating the County Community School Program. ACOE shall not use the Premises for any use other than that specified in section 3 and this section without the prior written consent of the District. ACOE agrees to maintain the Premises and to conduct the Program in a manner that meets all federal, state and local regulations relating to the Premises and to the operation of the Program, and to comply with all federal, state and local laws, regulations and ordinances, now or hereafter enacted concerning the Premises, the use of the Premises, and/or the Program. ACOE shall not use or permit the Premises to be used in whole or in part during the Term of this Lease for any purpose or use in violation of the laws or ordinances applicable thereto. Any uses that involve the serving and/or sale of alcoholic beverages and the conducting of games of chance are prohibited on the Premises. ACOE shall comply with the District-wide policy prohibiting the use of tobacco products on the Premises at all times. ACOE agrees to immediately respond to concerns expressed by neighbors or District relating to the operation of the Premises.

8. INDEMNIFICATION.

A. ACOE Indemnification. ACOE agrees to indemnify, reimburse, hold harmless, and defend District, its trustees, officers, employees and agents against any and all claims, causes of action, judgments, obligations or liabilities, and all reasonable expenses incurred in investigating or resisting the same, on account of, or arising out of, the operation, condition, use or occupancy of the leased Premises and all areas appurtenant thereto or from the conduct

of ACOE's Program or from any activity, work, or other things done, permitted or suffered by ACOE in or about the Premises. This Lease is made on the express condition that District shall not be liable for, or suffer loss by reason of, injury to person or property, from whatever cause in any way connected with the condition, use or occupancy of the Premises specifically including, without limitation, any liability for injury to the person or property of the ACOE, its agents, officers, employees, licensees and invitees.

B. District Indemnification. District agrees to indemnify, reimburse, hold harmless, and defend ACOE, its trustees, officers, employees and agents against any and all claims arising from any breach or default in the performance of any obligation on District's part to be performed under the terms of this Agreement, or arising from any act, omission or negligence of the District, or any officer, agent, employee, guest, or invitee of District, and from all costs, attorney's fees, and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon. If any action or proceeding is brought against ACOE by reason of such claim (regardless of whether a claim is filed), District upon notice from ACOE shall defend the same at District's expense. District shall give prompt written notice to ACOE's Risk Manager in case of casualty or accidents in or on the Premises.

C. Costs to Enforce Indemnification. Any reasonable costs incurred (including filing fees, attorney's fees, etc.) after providing written request for indemnification to the indemnifying party for indemnification shall be owed to the requesting party if it is determined the indemnification was owed. In addition, the indemnifying party shall pay reasonable attorneys' fees and costs incurred to enforce the indemnity obligations of this agreement to the indemnified party.

9. WAIVER OF PERSONAL LIABILITY.

A. The District and its members, directors, officers, agents, employees, successors and assignees shall not be liable to ACOE or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in, on or about the Leased Premises. ACOE, to the extent permitted by law, shall indemnify and hold the District and its members, directors, officers, agents, employees, successors and assignees, harmless from, and defend each of them against, any and all claims, liens and judgments arising from the operation of the Leased Premises, including, without limitation, death of or injury to any person or damage to property whatsoever occurring in, on or about the Leased Premises regardless of responsibility for negligence, but excepting the negligence of the person or entity seeking indemnity.

10. INSURANCE.

A. Commercial General Liability Insurance and Auto Insurance. ACOE shall, at ACOE's expense, obtain and keep in force during the term of this Lease a policy of commercial general liability insurance and a comprehensive auto liability policy insuring District and ACOE against claims and liabilities arising out of the operation, condition, use, or occupancy of the Premises and all areas appurtenant thereto, including parking areas. ACOE's comprehensive auto liability policy shall insure all vehicle(s), whether hired, owned or non-owned. ACOE's commercial general insurance shall be at least as broad as the Insurance Service Office (ISO) CG 00-01 form and in an amount of not less than Five Million dollars (\$5,000,000) for bodily injury or death and property damage as a result of any one occurrence and a Five Million dollar (\$5,000,000) general aggregate policy limit. In addition, ACOE shall obtain a products/completed operations aggregate policy in the amount of Two Million dollars

(\$2,000,000) and a personal injury policy in the amount of One Million dollars (\$1,000,000). The deductible/occurrence for said insurance shall not exceed Five Thousand dollars (\$5,000) for any and all losses resulting from negligence, errors and omissions of the ACOE, its Board, officers, agents, employees, invitees and/or students.

B. Fire Insurance. During the term of this Lease, District shall maintain at its cost a policy of standard fire and casualty insurance limited to the value of the buildings and improvements located on the Premises as of the Commencement Date. In the event of loss or damage to the buildings, the leased Premises or any contents, each of the parties hereto, and all persons claiming under each of the parties, shall look first to any insurance in its favor before making any claim against the other party, and to the extent possible without adding additional costs, each party shall obtain for each policy of insurance provisions permitting waiver of any claim against the other party for loss or damage within the scope of the insurance and each party, to the extent permitted, for itself and its insurers, waives all such insurance claims against the other party.

C. Workers' Compensation Insurance. During the term of this Lease, ACOE shall comply with all provisions of law applicable to ACOE with respect to obtaining and maintaining workers' compensation insurance.

D. ACOE's Property Insurance. ACOE acknowledges that the insurance to be maintained by District on the Premises will not insure any of ACOE's property or improvements made by ACOE. Accordingly, ACOE shall, at its own expense, maintain in full force and effect an insurance policy on all of its fixtures, equipment, improvements made by ACOE and personal property in, about, or on the Premises. Said policy is to be for "All Risk" coverage insurance to the extent of at least ninety percent (90%) of the insurable value of ACOE's property.

E. Certificates of Insurance and Endorsements. Prior to the Commencement Date ACOE shall deliver to District a certificate of insurance evidencing the existence of the policies required hereunder and copies of endorsements stating that such policies shall:

- (i) not be canceled or altered without thirty (30) days prior written notice to District;
- (ii) insure performance of the indemnity set forth in Sections 7 and 29 D;
- (iii) state the coverage is primary and any coverage by District is in excess thereto;
- (iv) contain a cross liability endorsement; and, (v) include a separate endorsement naming District as an additional insured.

At least thirty (30) days prior to the expiration of each certificate, and every subsequent certificate, ACOE shall deliver to District a new certificate of insurance consistent with all of the terms and conditions required in connection with the original certificate of insurance as described above.

11. MAINTENANCE AND REPAIRS.

A. ACOE, at its cost, shall maintain the Premises and the interior of the facilities located thereon in a good condition consistent with the condition of the Facility existing at the time of delivery in accordance with applicable provisions of the Education Code, the

implementing regulations and the District's policies and/or practices. ACOE acknowledges and accepts that the Premises are leased in "AS IS" condition.

B. District shall not be required to maintain, repair or replace the interior spaces including the interior surface of exterior walls. If District is required to perform maintenance that is not District's obligation, ACOE shall reimburse District, as additional rent, within thirty (30) days after receipt of billing, for the cost of such maintenance and repairs which are the obligation of ACOE hereunder; provided, however, that ACOE shall not be required to reimburse District for the cost of repairs of the structural elements of the building unless such repair is required because of the negligence or willful misconduct of ACOE or its employees, agents, or invitees in which event necessary repairs or replacements shall be charged to ACOE, its agents or clients as additional rent.

C. As used in this Lease, the term "structural elements of the building" are defined as and shall be limited to the foundation, footings, floor slab but not flooring, structural walls excluding glass and doors, and the roof excluding skylights. Plumbing, electrical and heating systems shall be considered "structural elements of the building" excluding, however, those repairs and maintenance items which can be completed without wall or floor removal in which case these repairs shall be the responsibility of ACOE.

D. Except as expressly provided in above, ACOE shall, at its cost, maintain and repair the Premises including the windows, skylights, doors and all door hardware, the walls and partitions, ceilings and all other surfaces visible to public or ACOE and the electrical, plumbing, lighting, heating, ventilating and air conditioning systems in a condition similar to that which exists at the time ACOE takes possession of the Premises. The term "maintain and repair" shall be defined as routine, regular or necessary maintenance. If plumbing, heating, ventilating and electrical systems can be accessed without the removal of walls or floors, repairs and maintenance shall be the ACOE's responsibility. For example, ACOE will be responsible for toilet replacements and clogged toilets, while the District will be responsible for main sewer lines that are clogged, damaged or broken due to no fault of ACOE. District shall have no responsibility for the air conditioning systems.

E. District shall have no maintenance or repair obligations with respect to the Premises except as expressly provided in this section. ACOE hereby expressly waives the provisions of Subsection 1 of Section 1932 and Sections 1941 and 1942 of the Civil Code of California and all rights to make repairs at the expense of District as provided in Section 1942 of said Civil Code.

12. ALTERATIONS AND IMPROVEMENTS.

A. With prior written approval of the District, ACOE may, at its sole cost and expense, construct or cause to be constructed on the Premises those improvements which ACOE deems necessary to the operation of its business provided such improvements are subject to local site, zoning, and design review and other required approvals and provided District has approved all such improvements.

B. Requirements. In regard to the improvements constructed on the Premises consistent with the provisions of this Lease, ACOE shall, prior to construction, major repair, renovation or demolition of any improvements on the Premises, obtain the prior written consent of District thereto and to the final plans, specifications, and schedule for completion thereof.

ACOE shall also, prior to construction of any improvements, obtain written approval from District for the improvements and their related costs. Said approval or disapproval must be expressly made by District in writing. ACOE agrees not to proceed with any construction of improvements until ACOE has obtained District's written approval. District and ACOE recognize that such approvals may be completed in phases, such that ACOE initially requests conceptual approval and, if approved by District, then proceeds to draw the plans and specifications. District shall respond to ACOE with said approval or disapproval within fifteen (15) days after District receives a written request with architectural plans and drawings from ACOE. District's approval shall be at its discretion, but shall not be unreasonably withheld. As a condition of such approval, District may require that ACOE agree to remove certain improvements and restore the Premises to its original condition upon expiration or earlier termination of this Lease, and/or provide District with adequate security for such removal.

C. Not less than fifteen (15) days prior to the construction, major repair, renovation or demolition of any improvements on the Premises, ACOE shall provide District with information regarding the contractor's financial condition and evidence to District's satisfaction that adequate funds to complete the improvements are committed and available or that completion has been otherwise adequately assured. Such assurances may include, in District's discretion, a completion guarantee. No construction shall commence until District has given ACOE written acceptance of such assurances.

D. ACOE shall give District fifteen (15) days prior written notice before commencing any work on the Premises so that District may post such notices of non-responsibility with respect thereto as District may deem appropriate.

E. Not less than fifteen (15) days prior to the construction, major repair, renovation or demolition of any improvements on the Premises, ACOE shall provide District with sufficient evidence that it has obtained all required approvals and permits for the work and that ACOE or ACOE's contractor(s) has in effect, with premiums paid, adequate casualty and liability insurance (including builder's risk) coverage and workers compensation that is satisfactory to District in its sole discretion.

F. Upon commencement of construction of any improvements, ACOE shall cause the work to be diligently pursued to completion in accordance with the schedule for completion approved by District, subject to unavoidable delays caused by weather, supply shortages, strikes or acts of God.

G. All work or improvements shall be performed in a sound and workmanlike manner, in compliance with all applicable laws and building codes, in conformance with the plans and specifications approved by District and DSA, if applicable, or any modifications thereto which have been approved in writing by District. If an improvement project requires the use of DSA-approved Inspector services, ACOE shall reimburse District for the costs related to said services.

H. District or District's agent shall have a continuing right at all times during the period that improvements are being constructed on the Premises to enter the Premises and to inspect the work provided that such entries and inspections do not unreasonably interfere with the progress of the construction. ACOE shall require its contractors who construct

improvements on the Premises to reasonably cooperate with District or its agent in such inspections.

I. Within ninety (90) days after completion of construction of any work of improvement on the Premises, ACOE shall deliver to District two (2) full and complete sets of as-built plans for the work so completed.

J. Removal of Alterations. Upon the expiration or sooner termination of the Agreement, ACOE shall, upon written demand by District, at ACOE's sole cost and expense, forthwith and with all due diligence, remove any alterations, additions, or improvements made by ACOE, designated by District to be removed, and ACOE shall, forthwith and with all due diligence, at its sole cost and expense, repair any damage to the Premises caused by such removal.

13. CASUALTY DAMAGE.

A. In the event that any portion of the Premises are destroyed or damaged by an uninsured peril, District or ACOE may, upon written notice to the other, given within thirty (30) days after the occurrence of the damage or destruction, elect to terminate this Lease; provided, however, that either party may, within thirty (30) days after receipt of notice, elect to make the required repairs and/or restoration at that party's sole cost and expense, in which event this Lease shall remain in full force and effect, and the party having made the election to restore or repair shall thereafter diligently proceed with the repairs and/or restoration.

B. In the event the Premises are damaged or destroyed from any insured peril to the extent of fifty percent (50%) or more of the then replacement cost of the Premises, District or ACOE may, upon written notice, given to the other within thirty (30) days after the occurrence of the damage or destruction, elect to terminate this Lease. If neither party gives notice in writing within this period, District shall be deemed to have elected to rebuild or restore the Premises, in which event District shall, at its expense, promptly rebuild or restore the Premises to their condition prior to the damage or destruction. In the event the Premises are damaged or destroyed from any insured peril to the extent of less than fifty percent (50%) of the then replacement cost of the Premises, District shall at District's expense, promptly rebuild or restore the Premises to their condition prior to the damage or destruction.

C. In the event that, pursuant to the foregoing provisions, District is to rebuild or restore the Premises, District shall, within thirty (30) days after the occurrence of such damage or destruction, provide ACOE with written notice of the time required for such repair or restoration. If this period is longer than one hundred twenty (120) days from the issuance of a building permit, ACOE may, within thirty (30) days of receipt of District's notice, elect to terminate the Lease by giving written notice to District of this election, whereupon the Lease shall immediately terminate. The period of time for District to complete the repair or restoration shall be extended for delays caused by the fault or neglect of ACOE or because of acts of God, labor disputes, strikes, fires, freight embargoes, rainy or stormy weather, inability to obtain materials, suppliers or fuels, acts of contractors or subcontractors, or delays of contractors or subcontractors due to such causes or other contingencies beyond the control of District. District's obligation to repair or restore the Premises shall not include restoration of ACOE's trade fixtures, equipment, merchandise, or any improvements, alterations, or additions made by ACOE to the Premises.

14. DEFAULT.

A. Events of Default. A breach of this Lease shall exist if any of the following events (hereinafter referred to as "Event of Default") shall occur:

(i) Default in the payment when due of any installment of rent or other payment required to be made by ACOE hereunder, and the default shall not have been cured within ten (10) days after written notice from District;

(ii) ACOE's failure to perform any other term, covenant or condition contained in this Lease and the failure shall have continued for thirty (30) days after written notice of such failure is given to ACOE; however, should ACOE's default involve a serious risk to the safety of the students or an illegal use of the premises, such cure must occur immediately. In the event the District has notified ACOE of default on the same basis on two prior occasions, the period to cure shall be reduced to five (5) business days. On the fourth occasion of default, the District may dispense with a cure period and determine that ACOE is in material default and commence termination of this Agreement pursuant to Section 14.B.

(1) The vacating or abandonment of the Premises by ACOE before the expiration of the Lease Term.

(2) The failure by ACOE to utilize the premises for the sole purpose of operating of the Program as authorized by this Lease and the terms and conditions set forth herein..

(3) Failure to keep in effect insurance as required herein.

(4) The ACOE or any guarantor of ACOE's obligations hereunder shall generally not pay its debts as they become due or shall admit in writing its inability to pay its debts;

B. Remedies. Upon any Event of Default, District shall have the following remedies, in addition to all other rights and remedies provided by law, to which District may resort cumulatively, or in the alternative:

(i) Recovery of Rent. District shall be entitled to keep this Lease in full force and effect (whether or not ACOE shall have abandoned the Premises) and to enforce all of its rights and remedies under this Lease, including the right to recover rent and other sums as they become due, plus interest at the rate of Bank of America's or its successor's reference rate plus three percent (3%) per annum from the due date of each installment of rent or other sum until paid.

(ii) Termination. District may terminate this Lease by giving ACOE written notice of termination. On the giving of the notice all of ACOE's rights in the Premises shall terminate. Upon the giving of the notice of termination, ACOE shall surrender and vacate the Premises in the condition required under this Lease, and District may re-enter and take possession of the Premises and all the remaining improvements or property and eject ACOE or any of ACOE's sub-tenants, assignees or other person or persons claiming any right under or through ACOE or eject some and not others or eject none. This Lease may also be terminated by a judgment specifically providing for termination. Any termination under this

section shall not release ACOE from the payment of any sum then due District or from any claim for damages or rent previously accrued or then accruing against ACOE. In no event shall any one or more of the following actions by District constitute a termination of this Lease:

- (1) maintenance and preservation of the Premises;
- (2) efforts to relet the Premises;
- (3) appointment of a receiver in order to protect District's interest hereunder;
- (4) consent to any subletting of the Premises or assignment of this Lease by ACOE, whether pursuant to provisions hereof concerning subletting and assignment or otherwise; or,
- (5) any other action by District or District's agents intended to mitigate the adverse effects from any breach of this Lease by ACOE.

(iii) Damages. In the event this Lease is terminated, District shall be entitled to damages in the following sums:

- (1) the worth at the time of award of the unpaid rent which has been earned at the time of termination; plus,
- (2) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that ACOE proves could have been reasonably avoided; plus,
- (3) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that ACOE proves could be reasonably avoided; and,
- (4) any other amount necessary to compensate District for all detriment proximately caused by ACOE's failure to perform ACOE's obligation under this Lease, or which in the ordinary course of business would be likely to result there from including, without limitation, the following: (i) expenses for cleaning, repairing or restoring the Premises; (ii) real estate broker's fees, reasonable advertising costs and other expenses of reletting the Premises; (iii) costs of carrying the Premises and insurance premiums thereon, utilities and security precautions; (iv) expenses in retaking possession of the Premises; (v) reasonable attorneys' fees and court costs; and, (vi) any unamortized real estate brokerage commission paid in connection with this Lease;

(5) No remedy herein conferred upon or reserved to the District is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

15. LIENS.

ACOE shall: (i) pay for all labor and services performed for, materials used by or furnished to ACOE or any contractor employed by ACOE with respect to the Premises; and, (ii) indemnify, defend and hold District and the Premises harmless and free from the perfection of any liens, claims, demands, encumbrances or judgments created or suffered by reason of any labor or services performed for, or materials used by or furnished to, ACOE or any contractor employed by ACOE with respect to the Premises; and, (iii) give notice to District in writing fifteen (15) days prior to employing any laborer or contractor to perform services related to, or receiving materials for use upon, the Premises; and, (iv) permit District to post a notice of non-responsibility in accordance with the statutory requirements of California Civil Code Section 3094 or any amendment thereof. In the event ACOE is required to post an improvement bond with a public agency in connection with the above, ACOE agrees to include District as an additional obligee.

16. INSPECTION OF PREMISES. ACOE agrees to provide District with a set of keys for emergency repairs. ACOE shall permit District and its agents to enter the Premises at any reasonable time for the purpose of inspecting the same, performing District's maintenance and repair responsibilities, or posting a notice of non-responsibility for alterations, additions, or repairs. In addition to the right granted to District under Section 12 to inspect improvements under construction on the Premises, District and its authorized agents and representatives shall have the right throughout the Term of this Lease to enter the Premises at all reasonable times during usual business hours and upon reasonable notice for the purpose of inspecting the Premises or exhibiting them to prospective lessees or occupants.

17. HOLDING OVER. Should ACOE hold over in possession after the expiration of the original term or any extended term of this Lease, the holding over shall not be deemed to extend the term or renew the Lease, but the tenancy thereafter shall continue upon the covenants and conditions herein set forth at 150% (one hundred fifty percent) of the monthly rental (Holding Over Rent) of the last expiring term unless ACOE and District mutually agree to a different rental amount.

18. EMINENT DOMAIN.

In the event the whole or any part of the Leased Premises is taken by eminent domain proceedings, the interest of the District shall be recognized and is hereby determined to be the amount of the then unpaid or outstanding Lease and shall be paid to the District, and the balance of the award, if any, shall be paid to ACOE.

19. NOTICES.

A. Notice to District. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Lease or by law to be served on or given to District by ACOE described in this Lease shall be in writing and shall be deemed duly served and given when personally delivered to District, to any managing employee of District, or, in lieu of personal service, when deposited in the United States mail, first-class postage prepaid, and sent by express mail that allows for tracking, addressed to District at Oakland Unified School District, 955 High Street, Oakland, CA 94607, Attn: Assistant Superintendent of Facilities Planning and Management, Buildings and Grounds and Custodial Management. District may change District's address for the purpose of this section by giving written notice of that change to City in the manner provided in this Section 19 A.

B. Notice to ACOE. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Lease or by law to be served on or given to ACOE by District described in this Lease shall be in writing and shall be deemed duly served and given when personally delivered to ACOE, to any managing employee of District, or, in lieu of personal service, when deposited in the United States mail, first-class postage prepaid, and sent by express mail that allows for tracking, addressed to 313 W. Winton Ave., Hayward, CA 94544-1136, Attn: Superintendent. ACOE may change its address for the purpose of this section by giving written notice of that change to District in the manner provided in this Section 19 B.

20. ASSIGNMENT. ACOE may not assign this Lease without District's consent and written approval. Any assignment of this Lease must be in writing and signed by District and ACOE. No assignment or transfer shall be effective until there shall have been delivered to District an agreement, or a duplicate original of such assignment containing an agreement, in recordable form, executed by the assignor and the proposed assignee whereby such assignee agrees, expressly for the benefit of District, to assume, keep and perform, and be bound by each and all of the covenants, conditions, restrictions and provisions herein contained on the part of ACOE, and any such assignment or transfer shall be subject to each and all of the covenants, conditions, restrictions and provisions hereof. Any assignment in violation of this Section shall be void and of no effect. ACOE agrees that the District may assign any interest in this Lease, as required or desired at any time, provided that the assignment will not disturb the ACOE's possession and quiet enjoyment of the Premises.

21. SUCCESSORS. This Lease contains all of the covenants, agreements, representations and provisions thereof and shall inure to the benefit of and be binding upon the respective heirs, legal representatives, executors, administrators, successors and assigns of the parties hereto, except as provided in the preceding Section.

22. SURRENDER OF LEASE NOT MERGER. The voluntary or other surrender of this Lease by ACOE, or a mutual cancellation thereof, shall not work a merger and shall, at the option of District, terminate all or any existing subleases or subtenancies, or operate as an assignment to District of any or all subleases or subtenancy.

23. WAIVER. The waiver by District or ACOE of any breach of any term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained shall not be deemed to be a waiver of the term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained.

24. GENERAL.

A. The captions and section headings used in this Lease are for the purposes of convenience only. They shall not be construed to limit or extend the meaning of any part of this Lease.

B. Time is of the essence for the performance of each term, covenant and condition of this Lease.

C. In case any one or more of the provisions contained herein, except for the payment of rent, shall for any reason be held to be invalid, illegal or unenforceable in any

respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Lease, but this Lease shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein. This Lease shall be construed and enforced in accordance with the laws of the State of California.

25. SIGNS. ACOE shall at ACOE's cost have the right and entitlement to place ACOE's signs on the Premises, and otherwise to advertise its services, without obtaining prior approval and consent of District. Any signs shall be at ACOE's cost and in compliance with the local ordinances pertaining thereto. In connection with the placement of such signs, District agrees to cooperate with ACOE in obtaining any governmental permits which may be necessary. Throughout the Term of this Lease ACOE shall, at its sole cost and expense, maintain the signage and all appurtenances in good condition and repair. At the termination of this Lease, ACOE shall remove any signs that it has placed on the Facility in which the Premises are located, and shall repair any damage caused by the installation or removal of those signs.

26. SURRENDER OF THE PREMISES. On the last day of the term hereof, or on sooner termination of this Lease, ACOE shall surrender to District the Premises and any then existing improvements in good order, condition and repair, reasonable wear and tear excepted, free and clear of all liens, claims and encumbrances. This condition shall be similar to that existing as of the Commencement Date of this Lease excepting normal ordinary wear and tear and any structural improvements made by District subsequent to the Commencement Date. This Lease shall operate as a conveyance and assignment to the District of any improvements identified by the District to remain on the Facility. ACOE shall remove from the Premises all of ACOE's personal property, trade fixtures, and any improvements made by ACOE which District agrees will be removed by ACOE. All property not so removed shall be deemed abandoned by ACOE. If the Premises are not so surrendered at the termination of this Lease, ACOE shall indemnify District against loss or liability resulting from delay by ACOE in so surrendering the Premises including, without limitation, any claims made by any succeeding subtenants or losses to District due to lost opportunities to Lease to succeeding subtenants.

27. HAZARDOUS MATERIALS. District and ACOE agree as follows with respect to the existence or use of Hazardous Materials on the Premises including any improvements made by ACOE.

A. Definition. As used herein, the term "Hazardous Materials" means any hazardous or toxic substance, material or waste that is or becomes regulated by any local governmental authority, the State of California or the United States Government. The term "Hazardous Materials" includes, without limitation, petroleum products, asbestos, PCB's, and any material or substance which is (i) defined as hazardous or extremely hazardous pursuant to Title 22 of the California Code of Regulations, Division 4.5, Chapter 11, Article 4, Section 66261.30 et seq. (ii) defined as a "hazardous waste" pursuant to Section (14) of the federal Resource Conservation and Recovery Act, 42 U.S.C. 6901 et. seq. (42 U.S.C. 6903), or (iii) defined as a "hazardous substance" pursuant to Section 10 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et. seq. (42 U.S.C. 9601). As used herein, the term "Hazardous Materials Law" shall mean any statute, law, ordinance, or regulation of any governmental body or agency (including the U.S. Environmental Protection Agency, the California Regional Water Quality Control Board, and the California

Department of Health Services) which regulates the use, storage, release or disposal of any Hazardous Material.

B. Hazardous Materials. ACOE shall not cause or permit any Hazardous Material to be generated, brought onto, used, stored, or disposed of in or about the Premises and any improvements by ACOE or its agents, employees, contractors, sub-ACOE's, or invitees, except for limited quantities of standard office, classroom and janitorial supplies (which shall be used and stored in strict compliance with Environmental Laws). ACOE shall comply with all Environmental Laws.

C. Responsibility of ACOE. From and after the commencement date, ACOE shall be solely responsible for all environmental matters affecting the Premises and any improvements. ACOE has been afforded the opportunity under the Option Agreement to enter the Premises during the option period for the purpose of conducting tests, engineering studies, to satisfy itself of the condition of the Premises with respect to Hazardous Materials. Without limiting the preceding sentence:

(i) Any handling, transportation, storage, treatment, disposal or use of Hazardous Materials in or about the Premises and any improvements by any person or entity shall be the responsibility of ACOE and shall strictly comply with all applicable Hazardous Materials Laws and the provisions of this Lease.

(ii) shall be the duty of ACOE to insure that the Premises and any improvements are at all times in strict compliance with all Hazardous Materials Laws and that all activities conducted in or about the Premises and improvements comply in every respect with all applicable Hazardous Materials Laws including, but not limited to, all notification, record keeping, and maintenance requirements of such Laws.

(iii) ACOE shall have and discharge all of the duties and obligations of the owner of the Premises and improvements under applicable Hazardous Materials Laws, including, but not limited to, response and remediation; and

(iv) ACOE shall be responsible for all liability to third parties who may be harmed or claim harm resulting from an environmental condition on or about the Premises and any improvements.

D. Notice. District and ACOE shall each give written notice to the other as soon as reasonably practicable of (i) any communication received from any governmental authority concerning Hazardous Materials which relates to the Premises and any improvements, and (ii) any contamination of the Premises and any improvements by Hazardous Materials which constitutes a violation of any Hazardous Materials Law. ACOE and sub-subtenants may use small quantities of household chemicals such as adhesives, lubricants, and cleaning fluids in order to conduct their business on the Premises and any improvements and such other Hazardous Materials as are necessary for the operation of their respective businesses of which District receives notice prior to such Hazardous Materials being brought onto the Premises and any improvements and to which District consents in writing. As a condition to its consent, District may require from ACOE or any sub-tenant additional security and/or indemnification against potential claims or losses resulting from the presence or use of such Hazardous Materials at or on the Premises and any improvements. At any time during the Term, ACOE shall, within thirty (30) days after written request therefore received from District, disclose in

writing all Hazardous Materials that are being used by ACOE or sub-tenants on the Premises and any improvements, the nature of the use, and the manner of storage and disposal.

28. SUBLEASING. ACOE shall not have the right to sublease the Premises or any other portion of the Facility, without the prior written consent of the District. District acknowledges that ACOE may sublease a portion of the Premises to Alameda County Juvenile Probation Department.

29. ENTIRE AGREEMENT. This Lease constitutes the entire understanding between the parties hereto and no addition to or modification of, any term or provision of this Lease shall be effective until set forth in writing signed by both District and ACOE.

30. SEVERABILITY. The provisions of this Lease are declared to be severable, and if any provision herein is invalidated by any court, the remaining provisions shall not be affected thereby and shall be fully enforceable, unless such enforcement would be unreasonable or inequitable under all the circumstances or would frustrate the purposes of this Lease.

31. JURISDICTION AND VENUE. This Lease has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Lease shall be determined and governed by the laws of the State of California. To the fullest extent permitted by California law, Alameda County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Lease.

IN WITNESS WHEREOF, DISTRICT and ACOE have executed this Lease Agreement as of the date written on the first paragraph of this Lease.

OAKLAND UNIFIED SCHOOL DISTRICT

James Harris, President, Board of Education

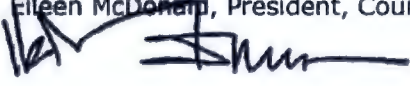
Dr. Devin Dillon, Interim Superintendent and Board Secretary

ALAMEDA COUNTY OFFICE OF EDUCATION



Eileen McDonald, President, County Board of Education

2/14/17
Date



L. Karen Monroe, County Superintendent and Board Secretary

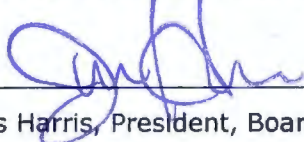
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Date

APPROVED AS TO FORM:

Marion McWilliams, OUSD General Counsel

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OAKLAND UNIFIED SCHOOL DISTRICT



James Harris, President, Board of Education



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ALAMEDA COUNTY OFFICE OF EDUCATION

Eileen McDonald, President, County Board of Education

Date

L. Karen Monroe, County Superintendent and Board Secretary

Date

APPROVED AS TO FORM:



Marion McWilliams, OUSD General Counsel

File ID Number: 17-0272
Introduction Date: 2-22-17
Enactment Number: 17-0262
Enactment Date: 2-22-17
By: